

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

GLEN BLAIR,)
)
Petitioner,)
)
vs.) Case No. 4:09CV799 HEA
)
MICHAEL BOWERSOX,)
)
Respondent.)

OPINION, MEMORANDUM AND ORDER

This matter is before the Court on Magistrate Judge Adelman's Report and Recommendation of July 13, 2012. Judge Adelman recommends that Petitioner's Amended Petition for Writ of Habeas Corpus, [Doc. No. 8], be dismissed. On July 24, 2012, Petitioner filed a motion for an extension of time within which to file objections. The Court granted the motion, and allowed Petitioner 30 days within which to file objections. Petitioner's objections were due August 25, 2012. As of this date, Petitioner has not filed written objections to the Report and Recommendation.

Judge Adelman's Report and Recommendation contains a detailed analysis of Petitioner's petition. Judge Adelman sets out the procedural history of Petitioner's state proceedings, and recognizes the failure of Petitioner to raise his claim of the denial of due process by the admission of a videotape statement of the

victim in this matter. Judge Adelman also thoroughly discusses Petitioner's claim that his counsel was ineffective by his failure to present evidence refuting the State's assertion that the victim was a "good girl."

This Court agrees with Judge Adelman's conclusions that Petitioner's Ground I is procedurally defaulted and that Ground II is without merit. The Court will adopt Judge Adelman's recommendation that this matter be dismissed without further proceedings.

Certificate of Appealability

The federal statute governing certificates of appealability provides that "[a] certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). A substantial showing of the denial of a constitutional right requires that "issues are debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings." *Cox v. Norris*, 133 F.3d 565, 569 (8th Cir. 1997). Based on the record, a Certificate of Appealability is not warranted in this matter.

Accordingly,

IT IS HEREBY ORDERED that the Amended Petition of Glen Blair for a

Writ of Habeas Corpus, [Doc. No. 8], is dismissed without further proceedings.

IT IS FURTHER ORDERED that the Court will not issue a Certificate of Appealability.

Dated this 6th day of September, 2012.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE